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BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 950-2017-001259

DONALD JAY McCAULEY, P.A.
P.O. Box 1079
Pawleys Island, SC 29585-1079

ACCUSATION

Physician Assistant License No. PA 51774

Respondent.

Complainant alleges:

PARTIES

1. Maureen L. Forsyth (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

2. On July 21, 2014, the Physician Assistant Board issued Physician Assistant License Number PA 51774 to Donald Jay McCauley, P.A. (Respondent). The Physician Assistant License is in delinquent status, having expired on September 30, 2017.

JURISDICTION

3. This Accusation is brought before the Physician Assistant Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 3527 of the Code states, in pertinent part:

2 “(a) The board may order the denial of an application for, or the issuance subject to
3 terms and conditions of, or the suspension or revocation of, or the imposition of
4 probationary conditions upon a physician assistant license after a hearing as required in
5 Section 3528 for unprofessional conduct that includes, but is not limited to, a violation of
6 this chapter, a violation of the Medical Practice Act, or a violation of the regulations
7 adopted by the board or the Medical Board of California. . . .

8 “(f) The board may order the licensee to pay the costs of monitoring the probationary
9 conditions imposed on the license.

10 “(g) The expiration, cancellation, forfeiture, or suspension of a physician assistant
11 license by operation of law or by order or decision of the board or a court of law, the
12 placement of a license on a retired status, or the voluntary surrender of a license by a
13 licensee shall not deprive the board of jurisdiction to commence or proceed with any
14 investigation of, or action or disciplinary proceeding against, the licensee or to render a
15 decision suspending or revoking the license.”

16 5. Section 2234 of the Code states, in pertinent part:

17 “The board shall take action against any licensee who is charged with unprofessional
18 conduct. In addition to other provisions of this article, unprofessional conduct includes, but
19 is not limited to, the following:

20 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting
21 the violation of, or conspiring to violate any provision of this chapter.

22 ...

23 “(e) The commission of any act involving dishonesty or corruption which is
24 substantially related to the qualifications, functions, or duties of a physician and surgeon.”

25 6. Section 2238 of the Code provides that a violation of any federal or state statute or
26 regulation related to dangerous drugs or controlled substances constitutes unprofessional conduct.

1 7. Section 2239 of the Code provides, in part, that the use or prescribing for or
2 administering to himself or herself, of any controlled substance constitutes unprofessional
3 conduct.

4 8. Section 3502.1 of the Code provides, in pertinent part, that a physician assistant is
5 authorized to issue a drug prescription provided that the physician assistant is under the
6 supervision of a licensed physician and is acting on behalf of, and as an agent for, the supervising
7 physician.

8 9. Section 11153 of the Health and Safety Code provides, in pertinent part, that a
9 prescription for a controlled substance shall only be issued for a legitimate medical purpose by an
10 individual practitioner acting in the usual course of his or her professional practice. An order
11 purporting to be a prescription which is issued not in the usual course of professional treatment is
12 not a legal prescription.

13 10. Section 11157 of the Health and Safety Code provides that: "No person shall issue a
14 prescription that is false or fictitious in any respect."

15 11. Section 11170 of the Health and Safety Code provides that: "No person shall
16 prescribe, administer, or furnish a controlled substance for himself."

17 12. Section 11173 of the Health and Safety Code provides, in pertinent part:

18 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
19 to procure the . . . prescription for controlled substances, (1) by fraud, deceit,
20 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

21 "(b) No person shall make a false statement in any prescription, order, report, or record,
22 required by this division. . . ."

23 **COST RECOVERY**

24 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

28 **FACTS COMMON TO ALL CAUSES FOR DISCIPLINE**

14. In 2015, Respondent worked as a physician assistant at a medical practice in Bakersfield, California. In the course of his employment, Respondent had access to prescription pads belonging to his physician supervisor.

15. Between January and November, 2015, Respondent wrote prescriptions to himself for his own use, using the prescription pad and name of his supervising physician, for the controlled substances lorazepam¹, diazepam² and tramadol³. Respondent was not under the care and treatment of his supervising physician, and wrote the prescriptions without her knowledge or consent. Respondent presented and filled these false and fraudulent prescriptions at local pharmacies.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Self Prescribing)

16. Respondent has committed unprofessional conduct and is subject to disciplinary action under sections 3527, 2239, 3502.1 of the Code, and Health and Safety Code section 11170, in that he prescribed controlled substances to himself and wrote prescriptions without the authority of his supervising physician, as alleged in paragraphs 14 and 15.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Violator of Drug Laws)

17. Respondent has committed unprofessional conduct and is subject to disciplinary action under sections 3537 and 2238 of the Code, and Health and Safety Code section 11153, in that he violated state laws regulating dangerous drugs and/or controlled substances, and issued prescriptions for controlled substances without a legitimate medical purpose, as alleged in paragraphs 14 and 15.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct; Dishonesty, Fraudulent or False Prescriptions)

¹ Lorazepam (trade name Ativan) is a benzodiazepine and central nervous system depressant used to manage and/or treat anxiety. It is a Schedule IV controlled substance.

² Diazepam (trade name Valium) is a psychotropic drug used for short-term relief of anxiety. It is a Schedule IV controlled substance.

³ Tramadol (tradename Ultram) is a synthetic analgesic compound use to treat pain. It is a Schedule IV controlled substance.

1 18. Respondent has committed unprofessional conduct and is subject to disciplinary
2 action under sections 3537 and 2234(e) of the Code, and Health and Safety Code sections 11157
3 and 11173, in that he committed acts of dishonesty or corruption by the issuance of false,
4 fraudulent and forged prescriptions, as alleged in paragraphs 14 and 15.

5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Physician Assistant Board issue a decision:


8 1. Revoking or suspending Physician Assistant License Number PA 51774, issued to
9 Donald Jay McCauley, P.A.;

10 2. Ordering Respondent to pay the Physician Assistant Board the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;

13 3. Ordering Donald McCauley, P.A., if placed on probation, to pay the Board the costs
14 of probation monitoring; and,

15 4. Taking such other and further action as deemed necessary and proper.

16
17 DATED: May 24, 2018


Maureen L. Forsyth
Executive Officer
Physician Assistant Board
Department of Consumer Affairs
State of California
Complainant